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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
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12 CITY OF HUNTINGTON BEACH , et al.

13 Plaintiff(s),

14 v.

15 GAVIN NEWSOM, et al.

16 Defendant(s).
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Case No. 8:23-cv-00421-FWS-ADS

**ORDER ON PRETRIAL AND TRIAL
PROCEDURES (CIVIL CASES)**

20
21 **PLEASE READ THIS ORDER CAREFULLY. IT GOVERNS THIS**
22 **CASE AND DIFFERS IN SOME RESPECTS FROM THE LOCAL RULES.**

23 This case has been assigned to Judge Fred W. Slaughter. This matter is set for
24 a trial on the above date in Courtroom 10D of the Ronald Reagan Federal Building
25 and United States Courthouse, 411 West 4th Street, Santa Ana, California 92701.
26 “Counsel,” as used in this Order, includes parties appearing *pro se*.¹ This Order
27 sets forth the court’s mandatory procedures governing pretrial and trial proceedings.

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I. PRETRIAL PROCEDURES

Lead counsel for each party must meet and confer in-person forty (40) days prior to the Final Pretrial Conference. Civ. L.R. 16-2. The parties should review Local Rule 16-2 carefully while preparing to attend the meet and confer.

A. Schedule of Pretrial Filings

Two (2) copies of all pretrial documents shall be delivered to the court, stapled once in the top left corner, and without blue backing. Counsel shall email all documents listed in the court's Schedule of Pretrial and Trial Dates Worksheet, including any amended documents and proposed orders, in Word-processing format to FWS_Chambers@cacd.uscourts.gov. The only documents not required to be submitted by email are motions *in limine* and oppositions thereto (but counsel shall still send proposed orders by email), the Joint Status Report Regarding Settlement, and declarations containing direct testimony.

- The following documents and motions must be filed at least twenty-one (21) days before the Final Pretrial Conference (referred to as "Trial Filings (First Round)" in the court's Schedule of Pretrial and Trial Dates Worksheet):
 - Motions *in Limine* with Proposed Orders
 - Memoranda of Contentions of Fact and Law
 - Witness Lists
 - Joint Exhibit List
 - Joint Status Report Regarding Settlement
 - Proposed Findings of Fact and Conclusions of Law (bench trials only)
 - Declarations of Direct Testimony (bench trials only)

¹ This court does not exempt parties appearing *pro se* from compliance with the Federal Rules of Civil Procedure or the Local Rules. *See* Local Rules 1-3 and 83-2.2.3.

- The following documents and motions must be filed at least fourteen (14) days before the Final Pretrial Conference (referred to as “Trial Filings (Second Round)” in the court’s Schedule of Pretrial and Trial Dates Worksheet):

- Oppositions to Motions *in Limine*
- Joint Proposed Final Pretrial Conference Order
- Joint/Agreed Proposed Jury Instructions (jury trials only)
- Disputed Proposed Jury Instructions (jury trials only)
- Joint Proposed Verdict Forms (jury trials only)
- Joint Statement of the Case (jury trials only)
- Proposed Additional Voir Dire Questions, if any (jury trials only)
- Evidentiary Objections to Declarations of Direct Testimony (bench trial only)

If the total number of motions *in limine* filed by the parties in the aggregate exceeds five (5) motions, the parties shall deliver two (2) courtesy copies of the motions *in limine*, oppositions, and proposed orders to the court in an organized binder or folder. The binder or folder must be indexed with tabs or dividers on the right side designating the docket number of each initial motion and the date on which it was filed. The binder or folder must be organized by the filing date of the initial motion, and each motion and its proposed order shall be followed by the opposition to the motion and its proposed order. Each party is responsible for delivering all of the motion papers related to the motions *in limine* that party filed, including any oppositions filed by an opposing party in response. The binder or folder must be delivered to chambers seven (7) days prior to the Final Pretrial Conference but shall not be sent prior to the cut-off date for an opposing party to file an opposition to any outstanding motions *in limine*.

All courtesy copies of pretrial filings shall be sent to Judge Slaughter’s courtesy box, located on the 10th floor of the Ronald Reagan Federal Building

1 and United States Courthouse in Santa Ana.

2 1. Motions *in Limine*

3 The court will generally hear and rule on motions *in limine* at the Final Pretrial
4 Conference. The court may rule on motions *in limine* orally or by written order.
5 Prior to filing any motion *in limine*, counsel shall first conduct a meaningful meet
6 and confer and make every effort to reach a satisfactory resolution on the motion
7 that negates its filing. If counsel are unable to reach an agreement, counsel shall file
8 all motions *in limine* at least twenty-one (21) days prior to the Final Pretrial
9 Conference. Oppositions must be filed at least fourteen (14) days prior to the Final
10 Pretrial Conference. Unless the court determines otherwise, counsel shall not file
11 any replies. Motions *in limine* and oppositions shall not exceed ten (10) pages in
12 length. Motions *in limine* must concern *specific* issues. Motions *in limine* are not
13 opportunities for summary adjudication and shall not be filed excessively.

14 2. Witness Lists

15 Witness Lists shall be filed twenty-one (21) days prior to the Final Pretrial
16 Conference, in the form specified in Local Rule 16-5. Witness Lists shall also
17 include, for each witness: a brief description of the witness's expected testimony;
18 why the witness's testimony will not be duplicative of other witnesses' testimony;
19 and a time estimate in hours or minutes (as applicable) of the length of direct and
20 cross-examination of the witness. Counsel shall file all Amended Witness Lists
21 by 12:00 p.m. (noon) the Thursday prior to the first day of trial.

22 3. Joint Exhibit List

23 The Joint Exhibit List shall be filed twenty-one (21) days prior to the Final
24 Pretrial Conference, in the form specified in Local Rule 16-6. The Joint Exhibit List
25 shall also set forth any objections to authenticity and/or admissibility, including the
26 basis for any such objections. Counsel shall file all Amended Joint Exhibit Lists by
27 12:00 p.m. (noon) the Thursday before trial.

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1 4. Jury Instructions (jury trials only)

2 Jury instructions shall be filed at least fourteen (14) days prior to the Final
3 Pretrial Conference. Counsel should propose jury instructions derived from
4 applicable jury instructions found in the most recent edition of the Manual of
5 Model Jury Instructions for the Ninth Circuit. If the case requires the application
6 of California law, counsel should source its instructions from the most recent
7 edition of the Judicial Council of California Civil Jury Instructions (“CACI”). In
8 other cases, counsel may submit alternatives to these instructions from other
9 authoritative sources of jury instructions only if there is a reasoned argument that
10 the above instructions do not properly state the law or are incomplete. Where a
11 standard instruction does not provide for a certain term to be used or leaves space
12 for counsel to write in a term, counsel must make the appropriate selection(s) or
13 addition(s) in their proposed instructions.

14 The parties shall make every effort to agree upon jury instructions before
15 submitting proposed instructions. At a minimum, the parties shall meaningfully
16 meet and confer regarding their proposed jury instructions pursuant to the
17 following schedule

- 18 • Twenty-eight (28) days prior to the Final Pretrial Conference: counsel shall
- 19 exchange their proposed general and special jury instructions.
- 20 • Twenty-one (21) days prior to the Final Pretrial Conference: counsel shall
- 21 exchange objections to their opposing counsel’s instructions, if any.
- 22 • Until fourteen (14) days prior to the Final Pretrial Conference: counsel shall
- 23 conduct meaningful meet and confers on an ongoing basis and make every
- 24 effort to reach an agreement on Joint Proposed Jury Instructions.
- 25 • Fourteen (14) days prior to the Final Pretrial Conference: counsel shall file
- 26 their (1) Joint/Agreed Proposed Jury Instructions and (2) Disputed Jury
- 27 Instructions.

28 If the parties disagree on any proposed jury instructions, they shall file: one

1 set of Joint/Agreed Proposed Jury Instructions to which all parties agree; and one
2 set of Disputed Jury Instructions. The Disputed Jury Instructions shall include a
3 “redline” comparison of any disputed language and the factual and/or legal basis
4 for each party’s position. The disputed instructions shall be organized by subject,
5 so that instructions that address the same or similar issues are presented
6 sequentially. The court may order the parties to further meet and confer before
7 and/or during trial to reach agreement on proposed jury instructions.

8 Each requested instruction shall be numbered, include a citation(s) to the
9 authority or source of the instruction, be set forth as a complete instruction on a
10 page separate from any other instruction, cover a single subject or principle of law,
11 and not be duplicative of another instruction.

12 If counsel’s proposed jury instructions total more than ten (10) pages in
13 length, an index shall accompany counsel’s proposed instructions. The index shall
14 include, for each instruction: the number of the instruction, the title of the
15 instruction, and the page number of the instruction. During trial and before closing
16 argument, the court will meet with counsel to reach an agreement on disputed jury
17 instructions.

18 5. Joint Verdict Forms (jury trials only)

19 The parties shall make every effort to agree upon a verdict form before
20 submitting proposals. Counsel shall file a proposed verdict form(s) at least fourteen
21 (14) days before the Final Pretrial Conference. If the parties are unable to agree on
22 a verdict form, the parties shall jointly file a “Competing Verdict Forms” document,
23 which shall include the parties’ respective proposed verdict form, a “redline”
24 comparison of any disputed language, and the basis for each party’s respective
25 position.

26 6. Joint Statement of the Case (jury trials only)

27 At least fourteen (14) days before the Final Pretrial Conference, counsel shall
28 file a Joint Statement of the Case. The Joint Statement should not exceed one page,

1 and will be read to a panel of prospective jurors before the court begins voir dire.

2 7. Voir Dire (jury trials only)

3 In general, the court conducts voir dire. The court asks prospective jurors basic
4 questions (such as jurors' general employment information, places of residence,
5 and familiarity with the parties and/or counsel) and may also ask additional case-
6 specific questions. The parties may propose case-specific voir dire questions so
7 long as the proposed questions are filed at least fourteen (14) days prior to the
8 Final Pretrial Conference. Final determination of voir dire will be discussed at the
9 Final Pretrial Conference.

10 8. Proposed Findings of Fact and Conclusions of Law (bench
11 trials only)

12 Counsel for each party shall, no later than twenty-one (21) days prior to the
13 Final Pretrial Conference, file and serve on opposing counsel their Proposed
14 Findings of Fact and Conclusions of Law in the form specified in Local Rule 52-3.
15 The parties may submit Supplemental Proposed Findings of Fact and Conclusions
16 of Law during trial, and the court may order the parties to file Revised Proposed
17 Findings of Fact and Conclusions of Law after trial concludes.

18 9. Declarations for Direct Testimony (bench trials only)

19 When ordered by the court, each party shall, at least twenty-one (21) days
20 prior to the Final Pretrial Conference, file declarations setting forth the direct
21 testimony of each witness whom that party expects to call at trial. Each party shall
22 file any evidentiary objections to the declaration(s) submitted by any other party at
23 least fourteen (14) days prior to the Final Pretrial Conference. Such objections
24 shall include the exact statement to which the party objects with a citation to the
25 page and line of the declaration on which the statement appears, a specific and
26 concise objection with a citation to the Federal Rules of Evidence or, where
27 applicable, a case citation, and at least two lines of blank space below each
28 objection for the court to write in its ruling on the objection.

1 B. Trial Exhibits

2 Trial exhibits that consist of documents must be submitted to the court in
 3 three-ring binders, not to exceed 3", and indexed by exhibit number with tabbed
 4 dividers on the right side. Plaintiff's exhibits shall be numbered 1, 2, 3, and so
 5 forth. Other parties' exhibits shall be numbered in the same sequential, numerical
 6 format, but shall not share any exhibit numbers with Plaintiff's exhibits. For all
 7 sets of binders, the spine of each binder must be designated with the volume
 8 number and the range of exhibit numbers included in the volume. Counsel shall
 9 submit to the court one original set of exhibit binders for the witness(es) and two
 10 copies for the court. Counsel shall also submit a copy of the exhibit binder to
 11 opposing counsel; however, counsel may agree to deliver the exhibits to each other
 12 in another form (*i.e.*, electronic delivery).

- 13 • The original set of exhibits must be demarcated with official exhibit tags
 14 filled out and printed on green paper, and attached to the front upper right-
 15 hand corner of each exhibit. Each tag shall include the case number, case
 16 name, and exhibit number. Tags may be obtained from the Clerk's Office, or
 17 counsel may print their own tags from Forms G-14A and G-14B on the
 18 "Court Forms" section of the court's website.
- 19 • The three sets of copies of the exhibits must be indexed with tabs or dividers
 20 on the right side but need not be stamped with official exhibit tags. Counsel
 21 will review the exhibit list and the exhibit binders with the Courtroom Deputy
 22 before the admitted exhibits are given to the jury.
- 23 • The court provides certain audio/visual equipment for use during trial. More
 24 information is available at
 25 <http://www.cacd.uscourts.gov/clerk-services/courtroomtechnology>.

26 Exhibits may not be "published" by virtue of handing them to the jury.
 27 Counsel shall meaningfully meet and confer no later than ten (10) days before trial
 28 to stipulate as far as possible to foundation, to waiver of the best evidence rule,

1 and to exhibits that may be received into evidence at the start of trial.

2 The court disfavors admitting multiple exhibits at the close of a party's case
3 when the corresponding witness is not on the stand. If counsel believes the
4 circumstances warrant or require the submission of multiple exhibits in this
5 manner, counsel is encouraged to request permission from the court to do so as
6 soon as possible.

7 C. Materials to Present on First Day of Trial

8 Counsel shall present these materials to the Courtroom Deputy on the first day
9 of trial:

- 10 1. The three sets of exhibit binders (one original, two copies) described above.

11 Counsel shall also present opposing counsel with the fourth set of exhibit
12 binders (a third copy).

- 13 2. Any deposition transcripts to be used at trial, for the court's use.

14 D. Court Reporter

15 Any party seeking special court reporter services for any hearing, including
16 real time transmission or daily transcripts, shall notify the court reporter at least
17 fourteen (14) days before the hearing date.

18 E. Date and Time of Trial

19 The court generally holds trials Tuesdays through Fridays from 8:30 a.m. to
20 12:00 p.m. and 1:30 p.m. to 4:30 p.m. The exact dates and times of trial
21 proceedings will be determined at the Final Pretrial Conference and on a case-by-
22 case basis. The court may consider the expected length of trial, the witnesses and
23 evidence to be presented, and the availability of counsel and the parties. Thursdays
24 are typically reserved for the court's calendar.

25 **II. TRIAL PROCEDURES**

26 A. Ongoing Obligation to Meet and Confer

27 The parties shall meet and confer on an ongoing basis throughout trial. The
28 court requires the parties to attempt to resolve any issue that arises during trial

1 among themselves first before the court will resolve it.

2 B. Opening Statements, Examining Witnesses, and Summation

3 Counsel must use the lectern. Counsel may prepare notes or materials in
4 advance for personal use, but must not do so during trial. The court will determine
5 time limits for opening statements, closing arguments and examination of witnesses
6 on a case-by-case basis.

7 C. Objections to Questions

8 Counsel must rise to state an objection and state only that counsel objects and
9 counsel's legal ground for objecting. Counsel shall not use objections to speak in
10 narrative form, restate testimony, argue the case, or attempt to guide the witness's
11 answers. Unless the court orders otherwise, counsel may not argue an objection
12 beyond stating counsel's legal ground for objecting.

13 D. Decorum

- 14 1. Unless granted specific permission by the court, in which case
15 counsel shall return to the lectern as soon as possible thereafter,
16 counsel must not approach the Courtroom Deputy or the
17 witness box.
- 18 2. Unless ordered otherwise, counsel shall rise when addressing
19 the court, and when the court or the jury enters or leaves the
20 courtroom.
- 21 3. All remarks by counsel, including any request to re-read
22 questions or answers, must be addressed to the court. Counsel
23 must ask the court's permission to speak with opposing
24 counsel. Counsel shall not address the Courtroom Deputy,
25 parties, court reporter, or opposing counsel absent permission
26 from the court.
- 27 4. All witnesses, except witnesses under the age of 14, are to be
28 addressed only by their last names.

- 1 5. Counsel shall meet and confer with opposing counsel and
2 obtain opposing counsel's approval before submitting any
3 stipulation to the court.
- 4 6. Counsel shall not leave counsel's table to confer with any
5 person outside the view of the court without the court's
6 permission while court is in session.
- 7 7. Counsel must not, by explicit or implicit means, display any
8 opinion or belief concerning the testimony of a witness,
9 including with respect to the witness's credibility. Counsel
10 shall instruct their clients and witnesses to do the same.
- 11 8. Counsel shall not speak to jurors about any subject. Counsel
12 shall not speak with co-counsel, opposing counsel, witnesses, or
13 clients about the case if the conversation could be overheard by
14 a juror. Counsel shall instruct their clients and witnesses to do
15 the same.
- 16 9. Only one lawyer for a party may conduct the direct or cross-
17 examination of a particular witness, or make objections as to
18 that witness, during that witness's testimony.
- 19 10. Counsel must strictly abide by all motion *in limine* rulings.
20 Counsel shall instruct their clients and witnesses to do the same.

21 E. Timeliness

- 22 1. Counsel and witnesses are expected to be prepared to
23 immediately commence trial proceedings on the time at which
24 the proceedings are scheduled to start.
- 25 2. To accommodate witnesses based on a disability or other
26 reasons, counsel must notify the Courtroom Deputy at least
27 forty-eight (48) hours in advance.
- 28 3. All presenting parties must call a witness to take the stand if

1 one is not currently testifying. The court may interpret a
2 party's failure to present one of their remaining witnesses
3 within a reasonable time as that party resting their case.

4 4. If the court adjourns trial or orders a recess while a witness is
5 on the stand, it is the responsibility of counsel who called the
6 witness to secure the witness's presence on the stand when trial
7 resumes. The court will seek to resume trial as soon as
8 possible.

9 5. The court may permit parties to call witnesses, such as
10 professional witnesses, out of sequence. It is the responsibility
11 of counsel to discuss in advance whether counsel intends to call
12 any witnesses out of sequence. Counsel must raise any
13 objection to such sequencing of testimony to the court before
14 the testimony is scheduled to begin.

15 F. Exhibits

16 1. Each counsel shall keep track of when each of its own exhibits
17 has been admitted into evidence. Counsel shall also keep their
18 own list of exhibits.

19 2. Counsel must advise the court and the Courtroom Deputy of
20 any agreements with respect to proposed exhibits and as to
21 those exhibits that may be received without further motion to
22 admit. Any related stipulations must be in writing.

23 3. If the Courtroom Deputy provides counsel with any exhibits
24 during a trial session, counsel shall be responsible for those
25 exhibits, and shall return them to the Courtroom Deputy at the
26 end of the session.

27 4. Counsel shall request any exhibit not previously marked for
28 identification to be marked at the time of its first mention.

1 Counsel shall show any such exhibit to opposing counsel before
2 the trial session in which the exhibit is first mentioned.

3 5. Counsel shall refer to exhibits by their official exhibit numbers.
4 Witnesses should be asked to do the same.

5 6. Counsel must not ask witnesses to draw charts or diagrams
6 without first requesting the court's permission. Any graphic
7 aid(s) shall be fully prepared before the trial session at which
8 counsel intends to present the graphic aid(s).

9 G. Depositions

10 If counsel seeks to read the questions and answers from an adverse party's
11 deposition for impeachment purposes, counsel shall first identify for the witness the
12 page and line on which the reading begins and ends. Counsel shall allow time for
13 any objection. If counsel seeks to ask the witness questions on the subject matter
14 of the deposition excerpts read, the witness shall be provided a copy of the relevant
15 pages of the deposition and shall be told to read the relevant pages and lines
16 silently. Counsel may then read further excerpts from the deposition and ask
17 questions of the witness, in no particular order. The witness may then read the
18 deposition excerpts into the record if questioned about its subject matter; otherwise,
19 counsel may read the deposition excerpts into the record.

20 If a witness is unavailable and that witness's testimony is offered by
21 deposition, the court may allow a reader to read the deposition testimony from the
22 witness stand while counsel asks questions, or counsel shall read the questions and
23 the answers.

24 H. Condensing Answers to Interrogatories and Requests for Admission

25 If counsel anticipates offering more than one answer to interrogatories or
26 requests for admissions based on documents exceeding twenty (20) total pages in
27 length, counsel should prepare a new document listing each question and answer,
28 and the source documents from which the new document was prepared. Counsel

1 shall provide copies of the new document to the court and opposing counsel.

2 I. Advance Notice of Issues Requiring Research or Briefing

3 Counsel must advise the court of any question of evidence or law that counsel
4 believes will necessitate legal argument requiring research or briefing prior to the
5 trial session at which the question will first be implicated. If an unforeseeable and
6 unexpected legal issue arises during a trial session, counsel shall notify the
7 Courtroom Deputy at the day's adjournment, but counsel shall not make any
8 comments or argument to the Courtroom Deputy regarding its merits. Counsel shall
9 advise the Courtroom Deputy at the end of each trial session of any issues that
10 must be addressed outside the presence of the jury.

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13 IT IS SO ORDERED.

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15 Dated: June 12, 2023



16 HONORABLE FRED W. SLAUGHTER
17 UNITED STATES DISTRICT JUDGE
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